

**Puerto Rico Solid Waste Management Planning Update**  
**DEPP RPB**  
**August 3, 2006**

Recent PR SWMA activities include:

**Public Outreach Plan**

On June 15, 2006, SWMA sent the RA a 14-page summary, including dates and details, of all their recently completed and upcoming public outreach efforts on solid waste management planning. These activities included meeting and public hearings associated with:

- Strategic Plan for Solid Waste Management: Completed August 2004; included 13 citizen meetings and 2 public hearings
- Evaluation, Diagnosis and Recommendations for Landfill Systems in Puerto Rico (Landfill Reaching Capacity Study): Completed June 2006; included 4 meetings with municipalities covering Compliance Operation Program, Landfill Design, RCRA Compliance, Landfill Operations Concepts
- Dynamic Programmatic Implementation Plan: Draft anticipated for completion in September/October 2006; will formulate communication plan after draft is completed
- SWMA's Regulations for the Reduction, Re-use and Recycling of Solid Waste, No. 6825: January 2005; included 2 public hearings and 4 targeted audience meetings
- Municipal Vegetative Material Diversion Program: October 2006; included 14 seminars
- Operations Engineering Program
- Recycling and Educational Program Areas; Includes:
  - Recycling Month
  - Solid Waste Management Library
  - Composting Area
  - Municipal Recycling Establishment Area
  - Special Waste Unit
  - Used Oil Program
  - Scrap Tires Program
  - Pollution Prevention Program
  - Act #411 (recycling audits for businesses)
  - Government Agency Preferential Purchasing Program

We will provide feedback to this report in conjunction with our review of SWMA's response to our comments on SWMA's Strategic Plan.

**Response to EPA's May 12, 2006 Comments on SWMA's Strategic Plan and Summary of Action**

SWMA's response was due on July 31 (Monday) however they requested from the RA a 4 day extension until August 4 (Friday).

On June 22, RPB (Kimiko Link and Adolph Everett) had a conference call with Dr. Javier Quintana, Executive Director of the SWMA, and Margarita Dijols of his staff to discuss EPA's comment letter and

answer any question SWMA may have. During the call:

- We reiterated the RA's commendation of SWMA in attempting to address the source reduction and recycling in its Strategic Plan
- We stated that we need to see a more holistic (i.e., integrated solid waste management) planning efforts which addresses financing and other shortfalls noted in our comments
- We noted past planning documents in 1991 and 1995 which were more comprehensive in this regard. We stated that based on our review of the Summary of Actions and SWMA's comments during the video conference chaired by the DRA a few weeks ago, it appears that SWMA's Dynamic Programmatic Implementation Plan (DPIP) might address several of our concerns if it were better understood.
- SWMA stated that the 1991 and 1995 documents are no longer public policy. Those documents were based on the premises of flow control being in place, and of taking a regional facility siting approach. SWMA's premise is now to have a market driven approach (i.e., let the tipping fees dictate disposal).
- SWMA will also likely propose a maximum disposal rate to ensure capacity of the operating LFs.
- SWMA stated that the DPIP is currently under development. It will be a 25-year planning document that will identify the Commonwealth's projects and activities in 5-year periods (1-5, 6-10, etc). The proposed facilities during each period will be a combination of expanded landfills (PR does not intend to site new LFs), materials recovery facilities, transfer stations, waste-to-energy facilities, and/or composting facilities. Associated financing schemes will be identified as well (private, SWMA, municipal, combinations, etc.).
- SWMA intends to have this document available in draft form in the August-September 2006 timeframe. The DPIP will eventually be issued by Executive Order as public policy.
- We discussed our comment that sought information on the activities targeted in environmentally sensitive areas per 40 CFR 258 Subpart B (e.g., karst, wetlands). No specifics were provided on proposed landfill expansions during the call. However, Dr. Quintana stressed that in order to develop an effective plan, he needs to know which landfills are to be identified for closure. He issued a letter to the RA dated June 15 to this effect.
- We provided the websites of EPA grant program solicitations with program objectives that align with SWMA's Strategic Plan objectives.
- We provided the integrated solid waste plans from HI and the territories in Region 9 that we referenced in our letter.

**Other- EPA's Review of EQB Solid Waste Management Regulations:**

Regarding PR's revised solid waste management regulations, DEPP currently is reviewing the package however the regulations have been reordered, renumbered, and expanded to include requirements for used oil and batteries, and the number of definitions has almost doubled with several key existing definitions substantively modified (and the entire definition chapter un-alphabetized).

As a result, a side-by-side review of the previous EPA-approved regulations (1993) with the current regulations has been complex and time-consuming and it appears that some of the changes may be substantive enough to warrant a full legal review. Options for review include contractor support, requiring PR to submit a new side-by-side comparison, or in-house review.

RPB attempted to secure contractor support for the review. However our existing contract (REPA III) has reached capacity due to contractor assistance provided to other programs, and the inability to raise the ceiling further closeout of REPA III and award of REPA IV. Requiring PR to submit a revised side-by-side likely would involve considerable delays and concerns regarding the completeness of the review. We recommend that a formal be performed in-house, preferably with ORC involvement.

DEPP has finished a cursory review of the first four chapters and some key changes are as follows:

- Chapter I - Definitions:
  - Composite liner: The current regulation change the hydraulic conductivity of the lower component  $1 \times 10^{-5}$  cm/sec (from  $1 \times 10^{-7}$  cm/sec in the '93 regulations)
  - Lateral expansion: The current regulations state lateral expansion is horizontal growth beyond the limits previously considered in the environmental document and beyond the limits of the property (vs. beyond the limits of the waste-handling area of the sanitary landfill facility in the '93 regulations)
  - Floodplain: Current regulations define floodplain as all zones identified on the flood maps of the Planning Board whereas the '93 regulations define it as an area inundated by the 100-year flood
  - Non-Hazardous solid waste generating activity: The current regulations add the word "unusual" to the '93 definition of any act, event or activity that produces non-hazardous solid waste
  - Special waste: The current regulations eliminate industrial waste and PCBs from '93 definition
  - Vector: The current regulations eliminate insects and arthropods from the '93 definition
- Chapter II - General Provisions: Most provisions were similar but are renumbered with new headings. Notable differences include:
  - General Provisions - Expanded to include used tires and used oil handling provisions
  - Applicability - Essentially the same with one important exclusion - the current regulations do not include language that states that facilities failing to meet these requirements are considered open dumps which are banned under PR and RCRA regulations

- Effective Date - The current regulations change the effective date from 1993 and 1994 ('93 regulations) to 1997. Also, the current regulations include language regarding permitting requirement dates for composting and used oil transfer stations
- Public Hearings and Notices: Current regulations change timeframes and newspaper posting requirements
- Chapter III - Prohibitions and General Requirements: Similar however current Chapter III provisions are completely reordered and represent requirements in both Chapter III and Chapter IV of '93 regulations which makes comparison challenging. RPB is still reviewing however some notable differences include:
  - Current regulations only require one level of treatment of discharges to surface water (vs. '93 regulations requirement of two levels)
  - Current regulations add Restrictions for Liquids
  - Current regulations add provisions for Non-Hazardous Solid Waste Facilities Operations Plans
  - Current regulations add section on Monitoring and Tracking, Recordkeeping, Sampling and Analytical Methods
- Chapter IV, Part IV-E: Financial Assurance: The financial assurance requirements have been moved from a separate chapter (Chapter IX in '93 regulations) and have been included in Chapter IV, Provisions for Sanitary Landfill Systems, of the current regulations. Based on initial review, the requirements appear the same with some minor differences including term renaming (some terms included in '93 regulations have been renamed), term elimination (the term main corporation is no longer in the current regulations), and elimination of the '93 clause that states that *"the [closure] cost estimate must equal the cost of closing the largest area of all the sanitary landfills ever requiring a final cover at any time during the active phase of the facility when the extent and manner if its operation would make closure the most expensive, as indicated by its closure plan. (Rule 903.3)"*